

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.49186 of 2015**

Arising Out of PS. Case No.-1763 Year-2010 Thana- DARBHANGA COMPLAINT CASE  
District- Darbhanga

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1. Mosst. Radhika Devi @ Radhika Devi and Ors Wife of Late Sushil Jha
  2. Ram Chandra Paswan @ Ramchandra Paswan Son of Late Dhanush Paswan
  3. Jang Bahadur Jha Son of Late Prabodh Jha All are residents of village - Dekuli, P.S. Bahadurpur, District - Darbhanga

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Santosh Kumar Jha Son of Sri Amalesh Jha resident of village - Dekuli, P.S. Bahadurpur, District - Darbhanga

... .. Opposite Party/s

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**Appearance :**

|                            |   |                                                              |
|----------------------------|---|--------------------------------------------------------------|
| For the Petitioner/s       | : | Mr.Manish Kumar No 13, Advocate<br>Mr. Rohit Kumar, Advocate |
| For the Opposite Party/s : |   | Mr.Ganesh Pd. Singh, APP                                     |
| For the O.P. No. 2         | : | Mr. Baidya Nath Thakur, Advocate                             |

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**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

6      17-03-2023                      Heard the parties.

2. The present petition has been preferred for quashing of the order dated 27.08.2015 passed in Cr. Rev. No. 324 of 2015 by learned Sessions Judge, Darbhanga, whereby the Cr. Rev. petition was allowed and the order dated 27.02.2012 passed in Protest cum Complaint petition was set aside.

3. As per the prosecution story, a complaint petition vide Complaint Case No. 490/2008 was preferred before the Learned C.J.M., Darbhanga on 28.11.2008 which was forwarded under Section 156(3) of the Cr.P.C. and resulted into



lodging of Laheriasarai P.S. Case No. 229/2009 dated 18.07.2009 under Sections 465, 467, 468, 471 and 120(B) of I.P.C.

4. The allegation in the F.I.R. was that the petitioners entered into conspiracy and the land allotted to him was sold to the petitioner no. 2.

5. The police investigated the matter and came into a finding that it is purely a civil dispute between the parties and accordingly, on 28.02.2010 they submitted final report No. 79/2010 (Annexure-2).

6. However, immediately after lodging of the F.I.R., O.P. No. 2 preferred protest petition before the learned C.J.M, Darbhanga, on 27.07.2009. On 11.08.2010, the learned C.J.M., Darbhanga, accepted the final form submitted by the police but, simultaneously, proceeded with the protest cum complaint petition and transferred the matter to the Court of learned Judicial Magistrate, Darbhanga.

7. The O.P. No. 2 was examined which was followed by examination of two other witnesses and the learned Judicial Magistrate-I Class, Darbhanga, thereafter, having found no sufficient ground to proceed in C.R. No. 1763/2010 vide an order dated 27.02.2012 dismissed the complaint case under



Section 203 of the Cr.P.C.

8. Aggrieved by the said order, the opposite party preferred Cr. Misc. No. 48605/2012 which is came to be withdrawn on 14.05.2015 and the same needs to be incorporated hereinbelow:

*"After some arguments, learned counsel appearing for the petitioner seeks permission to withdraw the petition with liberty to move before the appropriate forum for remedy in accordance with law.*

*As prayed, the petition stands dismissed as withdrawn with the aforesaid liberty."*

9. Thereafter, the O.P. No. 2 preferred Cr. Rev. No. 324 of 2015 which was disposed of on 27.08.2015 and the learned Session Judge, Darbhanga, directed the concerned Court to pass a fresh order in view of the fact discussed in the order.

10. Aggrieved, the present petition.

11. The matter was taken up by a bench of this Court (Mr. Justice Ashwani Kumar Singh as his Lordship then



was) on 09.05.2016 and while issuing the notice to O.P. No. 2, the further proceeding in connection with C.R. No. 1763/2010 pending before the Judicial Magistrate-1st Class, Darbhanga, was stayed.

12. Learned counsel for the petitioner submits that a bare perusal of the F.I.R. would show that the petitioner nos. 1 and 3 being family members of O.P. No. 2 lands were allotted to both sides, aggrieved the parties were also on litigating terms and after having sold the land in question, the title suit has already been preferred by the father of the O.P. No. 2 in which petitioner nos. 1 and 3 are defendants.

13. Learned Counsel further submits that in a zeal to implicate everyone, even the petitioner no. 2, Ram Chandra Paswan @ Ramchandra Paswan who was the purchaser of land has been dragged as an accused.

14. Learned counsel for the petitioners submit that any litigation between the family members, if the piece of land is sold to a person how the said person can be brought into the criminal net, the opposite party needs to answer. He as such submits that twice, the learned Court applied its mind and came to the same finding that it is a purely civil dispute and accordingly, final form of police was accepted and protest cum



complaint petition which was later turned into a complaint petition was dismissed, in view of the backdrop, the learned Sessions Judge, Darbhanga, erred in passing the order in question.

15. Per contra, learned counsel for the O.P. No. 2 submits that the land which belonged to him was sold by the petitioner nos. 1 and 3 to petitioner no. 2 and on that ground, the present petition was filed which later turned into the F.I.R.

16. It is his further submission that a title suit was also preferred by his father, as stated above. He, however, is unable to provide any development of the said title suit.

17. Having gone through the facts of the case, as also the order of this Court dated 14.05.2015 (Annexure-7) in which he was not extended any relief, this Court is also of the view that when the title suit has already been preferred by the father of O.P. No. 2, the result of the same will be applicable to all litigants.

18. So far as the present case is concerned, it's time that the same be consigned as the matter is of 2009 and twice the different learned Courts applied their judicial mind and came to same conclusion that the case is of civil dispute.

19. In the aforesaid facts and circumstances, the



present petition is allowed. The order dated 27.08.2015 passed in Criminal Revision No. 324/2015 arising out of C.R. No. 1763/2010 passed by the learned Sessions Judge, Darbhanga stands quashed.

**(Rajiv Roy, J)**

Ravi/-Kiran

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